IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.192 OF 2005

Ashok Leyland Finance (Division of Indusind Bank Ltd.) ... Petitioner

vs.

Mr.Jitendra Vinayak Mhatre & Another. .... Respondents.

Ms.Shakuntala Joshi, for Petitioner.

Mr.M.S.Kamblekar i/b. A.S.Rao, for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 23rd August,2005

P.C.:-

1. This is a petition filed under Section 9 of the Arbitration & Conciliation Act,1996. The Arbitrator is already in place. The petitioner can make application under Section 17 of the Arbitration & Conciliation Act, for interim relief. The Arbitrator has also power to appoint Receiver if he finds that the appointment of the Receiver is necessary. Merely because the Arbitrator cannot appoint the Court

Receiver of this Court as Receiver, there cannot be the reason as to why an application under Section 9 of the Act can be entertained. If the Receiver appointed by the Arbitrator needs any assistance of the Court or the machinery of the Court, there are provisions in the Arbitration & Conciliation Act,1996, for that purpose also. Because the Arbitrator is appointed, petition under Section 9 of the Act is maintainable, but granting of relief under Section 9 of the Act is in the discretion of the Court and it is well settled principle of law that when another remedy is available to litigant, the Court does not exercise its discretion and makes the litigant to exhaust the alternate remedy that is available. Taking overall view of the matter therefore, the petition is rejected. Parties to act on the ordinary copy of the order duly authenticated by the Associate/Personal Secretary of this Court.